

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

UNITED STATES OF AMERICA,

v.

**TONY MAURICE GRAVES,
Defendant.**

1:13-cr-00417-WSD-1

OPINION AND ORDER

This matter is before the Court on Defendant Tony Maurice Graves' *pro se* Motion for Copies [258] (the "First Motion for Copies"), Motion for Copies, Letters, and Forms [265] (the "Second Motion for Copies"), Motion to Proceed Pro se and Request for Extension of Time to File an Appeal [267], and Request for Attorney's Address of Practice of Ms. Mary Erickson, P.C. [268].

I. BACKGROUND

On September 30, 2014, Defendant pled guilty to Conspiracy to Commit Robbery, in violation of 18 U.S.C. § 1951(a). On December 17, 2014, Defendant was sentenced to two hundred twenty-eight (228) months imprisonment with three (3) years of supervised release. On July 16, 2015, the Court of Appeals affirmed Defendant's conviction and sentence.

On October 26, 2015, Defendant filed his First Motion for Copies.

On February 16, 2016, Defendant filed his Second Motion for Copies.

On February 17, 2016, Defendant filed his Motion to Proceed Pro se and Request for Extension of Time to File an Appeal.

On March 1, 2016, Defendant filed his Request for Attorney's Address of Practice of Ms. Mary Erickson, P.C.

II. DISCUSSION

A. First Motion for Copies

Defendant's First Motion for Copies requests that the Court send him copies of two letters that he previously sent to the Court. The first letter concerns the issue that "Paul Cognac was not representing him [Defendant] right and that he [Defendant] did not understand his plea-agreement," and the second letter concerns Defendant's Objections to the Presentence Investigation Report. ([258] at 1). Defendant states that these letters were not filed on the docket "because [they] was [sic] addressed to Judge Duffey." (Id.).

The Clerk's Office is the official repository of all court filings and the keeper of the record. See Fed. R. Crim. P. 55. Parties should file all documents in a case with the Clerk's Office unless otherwise instructed by a Local Rule, Federal Rule, or Court Order.

The Court does not have, in its own records or in the records of the Clerk's

Office, the originals or copies of the two letters Defendant seeks. This case has been closed for nearly two years and has been affirmed on appeal. The documents Defendant requests relate to issues in this case that were addressed long ago and reviewed by the Court. If he wished to retain copies of these documents, Defendant should have made copies of these letters or sent them directly to the Clerk's Office to be made a permanent part of the record. Defendant's First Motion for Copies is denied.

B. Second Motion for Copies

Defendant's Second Motion for Copies requests that the Court, the Clerk's Office, and his prior counsel send a number of documents to him in order to assist him with another appeal he intends to file with the Court. ([265]). Defendant requests copies of the two (2) letters sent to the Court that he sought in his First Motion for Copies,¹ the Indictment, the Sentencing minutes, the Change of Plea hearing minutes, the Judgment and Commitment, "an application/form for filing a § 2255 Motion within your court," "a complete copy of the Local Rules of Appellate Procedures within your District and Court," and "Ms. Erickson's Direct

¹ The Court already reviewed and denied Defendant's request for copies of the two letters he sent to the Court when considering his First Motion for Copies. Therefore, this request is denied as moot.

filed and her Anders Brief and Motion for withdrawal.” (Id. at 1). Defendant also seeks an order to compel his prior attorneys to forward to him all documents relating to his case that are in their possession. (Id.).

The Clerk of Court is authorized to provide copies of documents from the docket to members of the public and parties to a case. Defendant may obtain copies of any public document in the file by mailing his request to the United States District Court Clerk’s Office, Richard B. Russell Federal Building, 2211 United States Courthouse, 75 Ted Turner Drive, SW, Atlanta, GA 30303-3309. Defendant should state which document entries he requests and will be required to pay the cost of copies at \$0.50 per page pursuant to the miscellaneous fees set by the Judicial Conference. Defendant may also obtain an account through <https://www.pacer.gov/> to view and copy documents in this case. Defendant’s motion for copies of court documents is granted consistent with the foregoing.²

Defendant further requests the Court to compel his former counsel to forward to him all documents relating to his case that are in their possession. Defendant attached to his motion letters addressed to his former counsel, and dated the same day as his motion, that request all documents relating to his case be sent

² Defendant did not request that copies be provided to him with no prepayment of cost. The Court does not consider that request here.

to him. Defendant has not represented whether the documents he sought have been sent to him by former counsel. The Court is unable to compel the production of documents if it does not know what documents have yet to be produced. Defendant's request for an order to compel is denied.

C. Motion to Proceed Pro se and Request for Extension of Time to File an Appeal

In his Motion to Proceed Pro se and Request for Extension of Time to File an Appeal, Defendant seeks permission to proceed *pro se*, presumably to appeal his case, and for an extension of time to file an appeal. Defendant is permitted to proceed *pro se* in the filing of documents and pleadings in this closed criminal case. Defendant's request to proceed *pro se* is granted.

Defendant's request for an extension of time to file an appeal is without merit. Defendant filed his appeal of the Judgment and Commitment order on December 29, 2014. ([242]). On July 16, 2015, the Court of Appeals affirmed Defendant's conviction and sentence. Defendant's appeal has been adjudicated on the merits and a further direct appeal of his conviction and sentence would be barred by *res judicata* and denied as frivolous. See, e.g., United States v. Jiminez, No. 10-14961-BB, Order of Jan. 5, 2011 (11th Cir. 2011) (holding that second appeal of judgment and conviction barred by *res judicata* and denying appeal as frivolous). Defendant's request for an extension of time to file an appeal is denied.

D. Request for Attorney's Address of Practice of Ms. Mary Erickson, P.C.

Defendant's Request for Attorney's Address of Practice of Ms. Mary Erickson, P.C. asks for the Court's assistance in providing the contact information for attorney Mary Erickson, who had been Defendant's attorney on appeal to the Eleventh Circuit. Ms. Erickson is deceased. See <https://www.gabar.org/membership/membersearch.cfm>. The Court is unaware of the custodian of her records or that person's contact information. Defendant's motion is denied.

III. CONCLUSION

For the foregoing reasons,

IT IS HEREBY ORDERED that Defendant's First Motion for Copies [258] is **DENIED**.

IT IS FURTHER ORDERED that Defendant's Second Motion for Copies [265] is **GRANTED IN PART** and **DENIED IN PART**. The Motion is **GRANTED** to the extent that Defendant may contact the Clerk's Office to obtain copies of documents on the docket at the price of \$0.50 per page. The Clerk of Court is **DIRECTED** to send a copy of the public docket sheet, at no cost, to Defendant with Defendant's copy of this Order. Defendant should indicate which docket entries he requests the Clerk's Office to copy. The Motion is **DENIED** with respect to Defendant's request for an order to compel.

IT IS FURTHER ORDERED that Defendant's Motion to Proceed Pro se and Request for Extension of Time to File an Appeal [267] is **GRANTED IN PART** and **DENIED IN PART**. The Motion is **GRANTED** to the extent that Defendant may file documents *pro se* in this closed criminal case. The Motion is **DENIED** with respect to Defendant's request for an extension of time to file an appeal.

IT IS FURTHER ORDERED that Defendant's Request for Attorney's Address of Practice of Ms. Mary Erickson, P.C. [268] is **DENIED**.

SO ORDERED this 8th day of September, 2016.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE